

Aug 23 2019

ARTHUR JOHNSTON, CLERK

By:  Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

UNITED STATES OF AMERICA

VERSUS

CRIMINAL CASE: 3:19cr136-DPJ-FKB

LUCRECIA GARRIL-LOPEZ

**ORDER**

This matter is before the Court on the following motions filed on behalf of Defendant: Motion to Appoint Counsel, Motion to Require Initial Appearance in District of Arrest, and Motion to Continue Proceedings. Having considered the parties' filings, the Court finds as follows.

Pursuant to Rule 5 of the Federal Rules of Criminal Procedure, an initial appearance is to be held in the district of arrest, or if arrested in a district other than where the offense was allegedly committed, in an adjacent district if: "(1) the appearance can occur more promptly there; or (2) . . . the initial appearance will occur on the day of arrest." Fed.R.Crim.P. 5(c)(1) and (2).

Based on the filings in this matter, Defendant has been or will be arrested either in this district or an adjacent district, specifically, the Western District of Louisiana. Under either scenario, Rule 5 would allow Defendant's initial appearance to be held in this district, depending on *inter alia* the location and date of Defendant's arrest on the warrant issued by this Court. Defendant has, however, failed to show the existence, location, or date of such arrest and has, therefore, failed to show any right to an initial appearance in the Western District of Louisiana. Accordingly, Defendant's Motion to Require Initial Appearance in District of Arrest is denied, and Defendant's Motion to Continue Proceedings is denied as moot.<sup>1</sup>

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<sup>1</sup> In addition, it is not evident from the motions that Defendant has authorized the filing of the instant motions on Defendant's behalf.

Rule 5 further provides that at the initial appearance, “the judge must inform the defendant of . . . defendant’s right to retain counsel or to request that counsel be appointed if the defendant cannot obtain counsel.” Fed.R.Crim.P. 5(d)(1)(B). The Court will proceed in accordance with Rule 5. At the initial appearance, if Defendant requests and is financially eligible for appointment of counsel, the Court will appoint counsel at that time. Accordingly, Defendant’s Motion to Appoint Counsel is denied as premature. The Court notes, however, that Defendant and an interpreter will be made available in the courtroom one hour before the initial appearance for consultation with counsel.

IT IS, THEREFORE, ORDERED that the above motions are denied.

SO ORDERED this 23<sup>rd</sup> day of August, 2019.

/s/ F. Keith Ball  
UNITED STATES MAGISTRATE JUDGE